THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 17393 of 2006

DATED: 30-04-2007

Between:

Smt Samala Bhagya Lakshmi

…Petitioner

and

The Authorised Officer,
State Bank of Hyderabad,
Asset Recovery Branch, Hyderabad and others

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.No. 17393 of 2006

Oral order:

The sale notice dated 3-8-2006 issued by the 1st respondent scheduling the sale of the petitioner's house property on 7-9-2006, is challenged in this writ petition.

The petitioner is the owner of a residential house bearing No. 11-23-1253 in an extent of 295.97 Sq. yards of L.B.Nagar, Warangal. The 3rd respondent availed the loan from the 2nd respondent Bank. The petitioner stood guarantee for the loan and mortgaged her property towards collateral security. The 3rd respondent defaulted in repayment of the loan. The loan account was treated as a non-performing account. The 2nd respondent-Bank initiated recovery proceedings against the 3rd respondent and the petitioner before the Debts Recovery Tribunal, under the provisions of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (for short 'the DRT Act, 1993) in O.A.No.276 of 2002. In the said proceedings, the petitioner and the 3rd respondent are stated to have filed written statement and it is also stated that O.A.No.276 of 2002 is at arguments stage before the Tribunal.

While so, the 1st respondent issued a notice on 10-1-2002 calling upon the petitioner and the 3rd respondent to pay the amount due under O.A.No.276 of 2002 notice under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002 (for short 'Securitisation Act, 2002') (at that time an Ordinance). According to the petitioner, she filed another application in O.A.No.276 of 2002 seeking stay of further proceedings pursuant to the notice issued under Section 13 (2) of the Securitisation Act, 2002. No orders were however passed in the application.

While so, after a due process and after taking possession under Section 13 (4), the respondents 1 and 2 have notified the property of the petitioner for sale as they are entitled to under the provisions of the Securitisation Act, 2002.

The singular ground urged on behalf of the petitioner is that no proceedings under the provisions of the Securitisation Act, 2002 could be initiated during the pendency of proceedings under the provisions of the DRT Act, 1993 viz., O.A.No.276 of 2002.

The above contention has no basis in view of the law declared by the Supreme Court in ***Transcore v. Union of India and another***[1]***.*** Proceedings under the provisions of the Securitisation Act, 2002 can be pursued notwithstanding pendency of proceedings under the DRT Act, 1993.

It is required to be noticed that while issuing notice before admission, this Court by the order dated 5-9-2006 granted interim stay of the sale of the petitioner's property subject to the condition that the petitioner deposits Rs.5 lakhs with the 2nd respondent Bank within four weeks. By another order dated 3-11-2006 the time granted on 5-9-2006 was extended for a further period of four weeks with a default clause added. It is stated by the 1st and 2nd respondents-Bank that the petitioner has not deposited a single red nickel despite the order of this Court.

In the aforesaid circumstances and in view of the law declared by the Supreme Court in ***Transcore*** (supra), the plea of the petitioner is misconceived as is the writ petition.

The writ petition is accordingly dismissed. The interim order dated 5-9-2006 and extended further shall stand dissolved. There shall be no order as to costs.

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GODA RAGHURAM, J

30-04-2007
GRR

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[1] Civil Appeal Nos. 908 of 2006 and batch, decided on 29-11-2006